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8 **UNITED STATES DISTRICT COURT**  
9 **CENTRAL DISTRICT OF CALIFORNIA**  
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11 SEBASTIAN POGGEL,

12 Plaintiff,

13 v.

14 LUFTHANSA GERMAN AIRLINES and  
15 EXPEDIA, INC. dba EXPEDIA.COM,

16 Defendant.

Case No. 2:12-cv-04794-ODW(JEMx)

**ORDER TO SHOW CAUSE WHY  
THIS COURT SHOULD NOT  
REMAND FOR LACK OF SUBJECT  
MATTER JURISDICTION**

17 The Court has received Defendant Deutsche Lufthansa Aktiengesellschaft, dba  
18 Lufthansa German Airlines's ("Lufthansa") Notice of Removal. Where the Defendant  
19 attempts to remove this action from state court, this Court is "obligated to consider  
20 *sua sponte* whether we have subject matter jurisdiction" over the instant claims.  
21 *Valdez v. Allstate Ins. Co.*, 372 F.3d 1115, 1116 (9th Cir. 2004). The Court is  
22 unconvinced that it has subject matter jurisdiction over this action.

23 Lufthansa fails to demonstrate a claim arising under federal law pursuant to 28  
24 U.S.C. § 1331 that makes removal appropriate under 28 U.S.C. § 1441(b). To  
25 successfully assert a federal claim, the Defendants must prove that this action arises  
26 under federal law, rather than merely anticipating a federal defense. *Louisville & N.R.*  
27 *Co. v. Mottley*, 211 U.S. 149 (1908). While the Airline Deregulation Act ("ADA"),  
28 49 U.S.C. §§ 40101–44310, pre-empts claims based on states' regulation of airline

1 rates, routes, or services, claims with too tenuous a link to these factors do not trigger  
2 pre-emption. *Morales v. Trans World Airlines, Inc.*, 504 U.S. 374, 390 (1992).  
3 Furthermore, contractual obligations between an airline company and its customer are  
4 private obligations, not state actions, which may preclude pre-emption. *Am. Airlines,*  
5 *Inc. v. Wolens*, 513 U.S. 219, 227–28 (1995).

6 The Court has carefully examined Defendant's Notice of Removal. On its face,  
7 it appears that the Complaint raises claims based only on private action, and those  
8 claims appear too tenuously linked to a state's regulation of airline rates, routes, or  
9 services to be preempted by the ADA. Accordingly, the Court hereby orders  
10 Defendant to show cause in writing no later than **June 21, 2012**, why this action  
11 should not be remanded for lack of subject matter jurisdiction. Defendant must  
12 clearly establish that the Complaint includes a claim arising under a federal question  
13 or, if none, diversity of citizenship with the appropriate amount in controversy. No  
14 oral argument of this matter will be heard unless ordered by the Court.

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16 **IT IS SO ORDERED.**

17  
18 June 11, 2012

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21 **OTIS D. WRIGHT, II**  
22 **UNITED STATES DISTRICT JUDGE**  
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